

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**APPLICANTS :** Moens et al.  
**SERIAL NUMBER :** 10/544,116      **EXAMINER :** Gregory Listvoyb  
**FILING DATE :** October 4, 2005      **ART UNIT :** 1796  
**FOR :** THERMOSETTING POWDER COMPOSITIONS FOR COATINGS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**INTERVIEW SUMMARY**

Pursuant to 37 CFR § 1.133(b), Applicants memorialize herein the substance of an interview discussing the merits of the above-referenced application:

**Participants:**

**PTO Personnel:** Examiner Gregory Listvoyb  
**Applicant Rep.:** Charles Bell and Hilde Schoofs

**Date of Interview:** August 18, 2009 at 2 p.m. Eastern  
**Type of Interview:** Telephonic  
**Exhibits:** None  
**Claim(s) Discussed:** Independent claim 29, all other claims depending directly or indirectly therefrom

**Prior Art Discussed:** U.S. Patent No. 5,889,126 (Kaplan)

U.S. Patent No. 6,635,721 (Moens)

**Substance of Interview:**

- (1) **Rejection under 35 USC § 102:** Applicants argued that while there is a partial overlap between the ranges of the components of the claimed invention and those disclosed in Moens, Moens does not disclose the claimed range of all the components with sufficient specificity to uphold the anticipation rejection. Applicants pointed with particularity to the polyol constituent of the amorphous polyester wherein neopentyl glycol and the linear chain C4-C16 diol recite a mole percentage in a 50 point range, of which only 15 points overlap with the range disclosed by Moens. Applicants cited MPEP 2131.03 (II) and *Atofina v. Great Lakes Chemical Corp.* 441 F.3d 991, 78 USPQ2d 1417 (Fed. Cir. 2006) in support of their position.
- (2) **Rejection under 35 USC § 103:** Applicants argued that the combination of Kaplan and Moens was improper on its face since the references must be considered as a whole for all that they teach, and Moens requires a polyester composition having both a semi-crystalline polyester and an amorphous polyester. Applicants argued further that because the claimed invention explicitly prohibited any semi-crystalline polyester, one of skill in the art would not make such a combination. While Examiner Listvoyb was initially persuaded by this argument, he later asserted that Kaplan alone disclosed all the elements of claim 29. Applicants' representative explained that a rejection under 35 USC § 102 based on Kaplan was not currently at issue, but even if it was Kaplan did not disclose

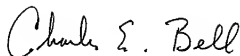
each and every element of the claimed invention. In the end, Examiner Listvoyb remained unpersuaded by Applicants' remarks/arguments.

- (3) **Claim Amendments:** No particular claim amendments were discussed

**Outcome:** No agreement was reached with respect to the claims.

The Commissioner is hereby authorized to charge payment of any fees that may be required, or credit any overpayment of same, to Deposit Account No. 03-4083.

Respectfully submitted,



Dated: August 24, 2009

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